

State of New Jersey  
Department of Labor and Workforce Development  
Board of Review

## MEMORANDUM

**To:** Cornelia Calderone, Chair, Joseph Sieber,  
Vice Chairman, and Frank Serico, Member

**From:** Gerald Yarbrough, Executive Secretary  
Board of Review

**Subject:** Minutes of the September 27, 2006  
Board of Review Meeting

**Date:** September 29, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, September 27, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, October 4, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair  
Mr. Sieber, Vice Chair  
Mr. Yarbrough, Executive Secretary  
Absent: Mr. Serico, Member

2. Following a motion by Mr. Sieber and seconded by Ms. Calderone, the minutes of the September 20, 2006 meeting were approved.

3. New Business

(a) 76,139

Ms Abrunzo presented this case that involved a claimant who performed services as a delivery driver and was discharged by the employer when he could not afford to purchase insurance for his truck. The employer contends the claimant was an independent contractor. The Appeal Tribunal had held the claimant's services in "employment" and the claimant not disqualified for benefits under N.J.S.A. 43:21-5(a) or N.J.S.A. 43:21-(b). After

discussion, the Board voted to affirm the Appeal Tribunal, except to note that a representative of the Division appeared at the hearing.

**(b) 116,750**

The matter was tabled for further research

**(c) 116,853**

Ms. Futterman described this case that involved a claimant who received a lump sum pension payment as well as severance pay. The claimant "rolled" a sum into an Individual Retirement Account (IRA). The Appeal Tribunal had held the claimant's weekly benefit rate reduced as a result of his receipt of the pension. The Board noted that the exact amount rolled over is not on the record and voted to remand the case for additional testimony. Ms. Futterman will prepare the remand.

**(d) 114,185**

As presented by Mr. Maddow, this case involved a claimant who left work as a result of problem he had with the owner. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). After discussion, the Board voted to affirm the Appeal Tribunal.

**(e) 106,066**

The matter was tabled for further research.

**(f) 114,764**

As described by Ms. Keller, this case involved a claimant who was discharged when he was absent from work due to illness. The claimant reported his absences and provided medical documentation to the employer. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43:21-5(a) or N.J.S.A. 43:21-5(b) and not liable for refund. As the record supports the conclusion, the Board voted to affirm the Appeal Tribunal.

**4. Public Portion**

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Ms. Calderone seconded the motion.

SUBMITTED FOR APPROVAL:

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Gerald Yarbrough  
Executive Secretary

GY:gs

